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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

In re ISAAC S., a Person
Coming Under the Juvenile
Court Law.

B285724
(Los Angeles County
Super. Ct. No. TJ20914)

THE PEOPLE,

Plaintiff and Respondent,

v.

ISAAC S.,

Defendant and Appellant.

APPEAL from a disposition order of the Superior Court of Los Angeles County, Donna Groman, Judge. Affirmed as modified with directions.

Steven A. Torres, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Yun K. Lee and Peggy Z. Huang, Deputy Attorneys General, for Plaintiff and Respondent.

Isaac S. raises two discrete issues about his disposition that make a long rendition of the background unnecessary. In short, the People filed a first amended petition (petition) under Welfare and Institutions Code section 602 alleging that Isaac S. committed second degree robbery (Pen. Code, § 211; count 1), carjacking (Pen. Code, § 215, subd. (a); count 2), assault with a stun gun or taser (Pen. Code, § 244.5, subd. (b); count 3), and fleeing a pursuing peace officer's motor vehicle while driving recklessly (Veh. Code, § 2800.2; count 4).¹ The petition also alleged as to counts 1 and 2 that a principal was armed. (Pen. Code, § 12022, subd. (a)(1).) On July 6, 2017, the juvenile court sustained the petition and found true the firearm allegations. On September 8, 2017, the court placed Isaac S. in camp for seven to nine months and set his maximum term of confinement at 10 years. The trial court did not declare counts 3 and 4 to be felonies or misdemeanors.

Assault with a stun gun (count 3) and fleeing a pursuing peace officer's motor vehicle while driving recklessly (count 4), however, are wobblers. (See *People v. Stratum* (2002) 28 Cal.4th 682, 685.) Wobblers are offenses punishable either by a term in state prison or by imprisonment in county jail. (See generally *People v. Park* (2013) 56 Cal.4th 782, 789–790.) Where, as here, a minor is found to have committed a wobbler offense “which would

¹ The juvenile court granted Isaac S.'s motion to dismiss count 5 for hit and run driving causing property damage.

in the case of an adult be punishable alternatively as a felony or a misdemeanor, the court shall declare the offense to be a misdemeanor or felony.” (Welf. & Inst. Code, § 702.) To satisfy Welfare and Institutions Code section 702, it is not enough that the offense is charged as a felony or that a minute order states the offense is a felony. (*In re Manzy W.* (1997) 14 Cal.4th 1199, 1207–1208; *In re Kenneth H.* (1983) 33 Cal.3d 616, 619.) Rather, the juvenile court must explicitly declare whether a wobbler is a felony or misdemeanor. (*In re Manzy W.*, at p. 1204.) Because the juvenile court did not make the necessary declaration, the parties agree that remand is proper on this issue.

The parties also agree that Isaac S. is entitled to an additional eight days of predisposition credits. The juvenile court awarded him only 152 days of predisposition credits. However, because Isaac S. was arrested on April 2, 2017 and committed to camp on September 8, 2017, his actual days of credit total 160. (See generally *In re Eric J.* (1979) 25 Cal.3d 522, 535–536; *In re Stephon L.* (2010) 181 Cal.App.4th 1227, 1231–1232.) Isaac S. is therefore entitled to an additional eight days of credit.

DISPOSITION

The disposition order is modified to reflect predisposition credits of 160 days. The juvenile court is directed to declare whether Isaac S.'s violations of Penal Code section 244.5 and of Vehicle Code section 2800.2 will be treated as felonies or misdemeanors. As modified, the disposition order is affirmed.

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DHANIDINA, J.

We concur:

EDMON, P. J.

LAVIN, J.